



HARMONIZED SYSTEM  
COMMITTEE

NC0756E1  
(Annexes I to IV)

-  
32<sup>nd</sup> Session  
-

O. Eng.

Brussels, 2003.

CLASSIFICATION OF THE "MEDIA COMPOSER 1000" (RESERVATION  
BY THE US ADMINISTRATION  
(Item VI.3 on Agenda)

Reference documents :

40.179 (HSC/17)	NC0151E1 (HSC/24)
40.260, Annex IJ/26 (HSC/17 – Report)	NC0160E2, Annex H/18 (HSC/24 – Report)
40.600, Annex IJ/4 (HSC/18 – Report)	NC0286E1 (HSC/26)
40.892 (HSC/19)	NC0340E2, Annex G/4 (HSC/26 – Report)
41.000, Annex A/VIII (HSC/19 – Report)	NC0385E1 (HSC/27)
41.100, Annex F/8 (HSC/19)	NC0430E2, Annex H/2 (HSC/27 – Report)
41.100, Annex K/16 (HSC/19)	NCO612E1 (HSC/30)
NC0071E1 (HSC/23)	NC0655E2, Annex G/2 (HSC/30 – Report)
NC0090E2, Annex IJ/36 (HSC/23 – Report)	

I. BACKGROUND

1. At its 30<sup>th</sup> Session in November 2002, the Harmonized System Committee re-examined the classification of the "Medial Composer 1000", as a result of reservations submitted by the EC and the Czech Republic. When the issue was put to a vote, 28 delegates voted for classification in heading 85.43 (subheading 8543.89) and 19 delegates voted for heading 84.71. The decision to classify the "Media Composer 1000" in heading 85.43 was made by application of Note 4 to Section XVI and Note 5 (E) to Chapter 84. As a consequence of its decision, the Committee also decided to maintain Classification Opinion 8543.89/4. The Committee decided that a second Classification Opinion was not necessary. However, for the sake of clarity, the Committee noted that the classification decision taken at its 30<sup>th</sup> Session, was on a product whose sole material difference from the product which was the subject of Classification Opinion 8543.89/4 was the fact that the software was presented separately.
2. By letter of 23 January 2003, the United States requested the Secretary General of the WCO to submit this HS Committee decision to the Council in accordance with Article 8.2 of the HS Convention for referral back to the Harmonized System Committee for re-

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examination. The Council, at its 101<sup>st</sup> and 102<sup>nd</sup> Sessions, referred the matter back to the Harmonized System Committee for re-examination at its 32<sup>nd</sup> Session.

3. Pursuant to Rule 20 of the HS Committee's Rules of Procedure, on 17 September 2003, the Secretariat received the following Note from the **US** Administration setting out the reasons for its request.

## II. **US** NOTE ON THE CLASSIFICATION OF THE **AVID MEDIA COMPOSER 1000**

### "INTRODUCTION"

4. At its 32<sup>nd</sup> Session (November 2003), the Harmonized System Committee will examine the classification of the **Avid Media Composer 1000**. For the reasons set forth below, the **United States** believes that the **Media Composer 1000** is classified in heading 84.71.

### BACKGROUND

5. For the fourth time since its 18<sup>th</sup> Session, the Harmonized System Committee will address the classification of the **Media Composer 1000**. At its 18<sup>th</sup> Session, the Committee classified the **Media Composer 1000** in heading 85.43. At its 24<sup>th</sup> Session, the Committee reviewed the technical information for this merchandise and decided that the hardware components for the **Media Composer 1000** were properly classified in heading 84.71 as an automatic data processing (ADP) system rather than in residual heading 85.43. After a reservation was entered against that decision, the Committee reconsidered and then reconfirmed at its 27<sup>th</sup> Session the previous decision to classify the **Media Composer 1000** in heading 84.71. A reservation was then entered against the decision taken at the 27<sup>th</sup> Session.
6. The **United States** believes that this latest decision taken at the 30<sup>th</sup> Session of the Committee is legally incorrect. Furthermore, the **United States** believes that the decision is contrary to the sound administration of the Harmonized System. Therefore, the **United States** entered a reservation against this decision.

### DESCRIPTION OF THE MERCHANDISE

7. The **Media Composer 1000** consists of a central processing unit (computer), two monitors, two hard disk storage devices, multimedia speakers, and a internal video coprocessor board, sound board, video compression board and graphics board. The software presented with the machine consists of a program that is designed to allow a user to view, edit and insert video or audio effects in the preparation of a video program.
8. The reference to "**Media Composer**" in the name of the product describes the software program, which is also available for purchase separately. The machine, with or without the software, consists solely of a freely programmable ADP machine in the form of a system. Users of the **Media Composer 1000** can and do use it for a wide variety of purposes other than video editing such as word processing, email and Internet access and for any other purpose commonly performed by an ADP machine.

9. The software presented with and used in the **Media Composer 1000** can be installed and operated separately in any standard ADP machine or system. While originally sold with an **Apple** computer as part of the **Media Composer 1000** system that is currently being considered by the Committee, the **Media Composer** software was designed for use and installation in “off-the-shelf” or ready made and readily available ADP machines or personal computers. A more recent version of the software can be used in a laptop computer as well as in any other standard ADP machine.

#### CLASSIFICATION OF THE MERCHANDISE

10. The classification of a machine under the Harmonized System must be based on the characteristics of the machine rather than on the nature of the software presented with the machine. In the instant case, the central processing unit is a freely programmable machine within the meaning of Note 5(A) to Chapter 84 and can be used for a variety of applications and programs merely by installation of the appropriate software without affecting the video-editing software. The other hardware components in the **Media Composer 1000** all perform data processing functions.
11. As indicate above, all the hardware components in the **Media Composer 1000** perform data processing functions. With respect to the boards that convert and compress data, the conversion and compression of data, regardless of content, for use by a computer has consistently been determined by the Committee and various national courts as being a data processing function. The boards found in the **Media Composer 1000** are all classified in heading 84.71 as units of ADP machines.
12. The objective characteristics of this machine or system are that it consists of a CPU, input units and output units for an ADP machine, and that these components, when presented together, constitute a freely programmable ADP machine presented in the form of a system within the meaning of subheading Note 1 to Chapter 84. These characteristics control the classification of the **Media Composer 1000**.
13. Classifying the **Media Composer 1000** in other than heading 84.71 will set a precedent that will generate uncertainty and non-uniformity in the classification of machines that otherwise do not have any specialised hardware components. For example, if this same machine, which is a freely programmable computer, were presented with word processing software rather than video-editing software, classification by the nature of the software would require that the computer be classified as a “word processor” in heading 84.69 rather than as an ADP machine in heading 84.71. This would be an absurd and illogical result. There is no legal basis that permits software presented with an ADP machine to determine the classification of the machine under the Harmonized System. Accordingly, in the **US** view, the decision by the Committee at its 30<sup>th</sup> Session to classify the **Media Composer 1000** in heading 85.43 by the nature of the software is clearly incorrect.
14. Finally, there has been some disagreement about the characteristics of the **Media Composer 1000** during the discussion of this merchandise by the Committee. The record, however, clearly indicates how the **Media Composer 1000** works and functions. In Doc. NC0151E1, after viewing a demonstration of the **Media Composer 1000**, the Secretariat determined that the **Media Composer 1000** is a freely programmable ADP machine that is classifiable in heading 84.71 :

The manufacturer's demonstration established to the satisfaction of the Secretariat that the function of the system is the processing of information based on whatever program is used with the machine. **The demonstration showed the user being able to access WORD, the Internet, etc. The recommended boards are of the kind usually found in standard automatic data processing machines, but possessing a higher capacity. (Emphasis added.)**

Based on this demonstration, it is the Secretariat's view that the system classified by the Committee at its 18th Session (see Classification Opinion 8543.89/4, page 40aE) concerned an ADP machine not dedicated for any particular use but freely programmable. This system was accompanied by specific software to enable it to record digital video images, create video effects, or edit and finalize video programmes for broadcasting. Consequently, the ADP machine would meet the terms of Notes 5 (A) and 5 (B) and, as a result, would be classifiable in heading 84.71 (subheading 8471.49 by application of subheading Note 1 to Chapter 84). In accordance with Note 6 to Chapter 85, the "Media Composer" software would be classifiable in heading 85.24 (subheading 8524.39).

### CONCLUSION

15. As presented, the Media Composer is a freely programmable ADP machine within the meeting of Note 5(A) to Chapter 84. As the classification of this machine cannot be based on its software, the United States believes that the Media Composer 1000 is properly classified in heading 84.71 by application of General Interpretative Rule 1 and Notes 5(A) and (B) to Chapter 84.
16. The Committee should reconfirm the decisions taken at its 24<sup>th</sup> and 27<sup>th</sup> Sessions and classify the Media Composer 1000 in heading 84.71."

### III. SECRETARIAT COMMENTS

17. For the convenience of the delegates, the Secretariat has reproduced the previous Committee Reports on this issue, which can be found in Annexes I to IV to this document.

### IV. CONCLUSION

18. The Committee is invited to rule on the classification of the "Media Composer 1000" taking into account the Note from the US Administration and the Committee's previous discussions when it examines this agenda item.

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Excerpt from Doc. 40.600 - Annex IJ/4  
(HSC/18/Nov. 96)

1	2
40.179 (HSC/17)	Classification of the "Media Composer 1000" system.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. The Committee examined the classification of a "Media Composer 1000" system, taking into account Doc. 40.179.
2. The Delegates of the **EC** and the **US**, supported by other delegates, agreed with the Secretariat that the appliance was classifiable in heading 85.43. Given that it was a digital data-processing system, designed to record digital video images, create video effects, or edit and finalize video programmes for broadcasting, and that clearly these were functions other than information processing, classification in heading 84.71 ought to be ruled out by virtue of Note 5 (E) to Chapter 84. Heading 85.21 also ought to be ruled out, given that the appliance performed various functions other than video recording or reproducing. As the creation of video effects, etc., was not specifically mentioned in Chapter 85, the appliance was classifiable in heading 85.43 as a functional unit by application of Note 4 to Section XVI.
3. However, other delegates felt that it was an information processing system fulfilling the conditions of Note 5 (A) to Chapter 84. Consequently, it ought to be classified in heading 84.71 and, more specifically, subheading 8471.46 in accordance with Subheading Note 1 to Chapter 84. Automatic data processing machines made it possible to perform several simple functions by installing specialised programmes, such as text processing. In support of heading 84.71, some delegates stressed that most of the elements of the system at issue met the conditions of Notes 5 (A), 5 (B), 5 (C), or 5 (D) to Chapter 84.
4. However, other delegates in favour of classification in Chapter 85 pointed out that it was the function performed by the system which determined the classification, and not the individual functions of the various system elements. The principal function was making video programmes and, given that this function was not specifically mentioned, the system ought to be classified in heading 85.43.
5. The Delegate of the **United States** noted that the system incorporated certain additional hardware whose application was specifically for professional video and audio editing. This hardware included a video monitor, a video board solely for editing and specialised boards for compression, video effects and audio mixing. As a whole, the principal function of the system was video editing and, therefore, under Legal Note 5 (E) to Chapter 84, classification would be directed to the specific function that was its principal function. In this case, the function fell in heading 85.43.

6. After this discussion, the Committee took a vote and decided to classify the "Media Composer 1000" in heading 85.43, by 18 votes to 3. The Committee also decided that subheading 8543.89 applied.
7. To implement this decision, the Secretariat was asked to prepare a Classification Opinion that would be examined first by the presessional Working Party.

Excerpt from Doc. NC0160E1 - Annex H/18  
(HSC/24/Oct. 99)

1	2
NC0071E1 (HSC/23) NC0151E1	Classification of the "Media Composer 1000".

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. The Secretariat began the discussion of this question by explaining that, following the United States request to resubmit this issue to the Harmonized System Committee, it had conducted a new study and received a demonstration of the "Media Composer 1000". From the additional information obtained, it now appeared that the initial decision taken by the Committee at its 18<sup>th</sup> Session might be based on erroneous information regarding the nature of the components and the operation of this apparatus, which was why the Secretariat had issued Doc. NC0151E1.
2. The EC Delegate was concerned by the fact that the decision taken by the Committee in 1996, by a large majority (18 votes to 3), was being questioned, although no new data had been presented; the technical data in the new working document was the same as that in the Classification Opinion adopted by the Committee, except for the presence of software. In that respect, all systems required software and that addition did not change the initial classification of the system, on the understanding that the software was to be classified separately in heading 85.24, by application of Note 6 to Chapter 85.
3. He recalled that the apparatus was described as a system consisting of a combination of machines having a specific function, and that classification in heading 85.43 was based on Note 4 to Section XVI (functional unit) and on Note 5 (E) to Chapter 84. The machine was specially designed, once the software was loaded, to record video images (a function mentioned specifically in a heading of Chapter 85), create video effects, edit or finalize video programmes, which was clearly a specific function, other than data processing. At its 23<sup>rd</sup> Session, the Committee had classified a voice processing system in heading 85.17 (for which the Committee had just adopted a Classification Opinion (Annex K/4 to the present Report)), and that appliance was of similar configuration to the "Media Composer 1000" and also included software. Furthermore, he took the view that the Committee was being asked to classify a complete system performing some very precise video functions.
4. He remained convinced that the initial classification was correct and based on very precise rules laid down in the Harmonized System, namely Note 4 to Section XVI and Note 5 (E) to Chapter 84 which determined the classification of combinations of machines performing a specific function other than data processing. He therefore proposed that the Committee confirm the classification of the "Media Composer 1000" system in sub-heading 8543.89, by application of GIRs 1 and 6, and that the software, called "Media Composer", be classified in heading 85.24 by virtue of Note 6 to Chapter 85.

5. In support of that view, another delegate also pointed out that the machine at issue comprised components (a display unit with an interlaced scanner and various boards) whose function went well beyond that of elements making up an ordinary automatic data processing machine, and that it was able to receive and send video signals, a function other than data processing. Finally, given the technological developments, this delegate doubted that the machine examined in 1996 was identical to that demonstrated at the present Committee session.
6. The **US** Delegate said that following additional research by his Administration, it had concluded that the Committee's decision to classify this machine in heading 85.43 was based on an incorrect analysis of its design and operation. That decision was based on the presence of elements such as the video monitor and specialized boards, which performed specific editing and audio functions, whereas those specific functions were actually performed by the software. The various boards were of the type usually used in ordinary automatic data processing machines, and their only function was to increase the capacity of the machine and not to make it suitable for a specific use.
7. He added that the fact of inserting software in an automatic data processing machine permitting it to perform a specific task (e.g., drawing software) did not mean that this machine should be considered a machine with a specific function (a drawing machine in that case). He also dismissed the comparison with the voice processing system, as the latter served as switching apparatus to route calls and place calls on hold, these being specific functions of telephony apparatus.
8. He concluded that the "**Media Composer 1000**" was a freely-programmable machine fulfilling all the conditions of Note 5 to Chapter 84, classifiable in heading 84.71 as an automatic data processing machine presented in the form of a system.
9. After this discussion, the Committee decided, by 14 votes to 7, that the "**Media Composer 1000**" should be classified in heading 84.71 rather than in heading 85.43, by application of Note 5 (A) to Chapter 84 (subheading 8471.49 by virtue of Subheading Note 1 to Chapter 84), the software being classified in heading 85.24, by application of Note 6 to Chapter 85.
10. To reflect the above decision, the Secretariat was instructed to prepare a draft Classification Opinion for examination by the next presessional Working Party.
11. Finally, it also decided, following a roll call vote, by 23 votes to 8 (two abstentions) to delete the present Classification Opinion 8543.89/4 on page 40a of the Compendium.

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1	2
NC0286E1 (HSC/26) NC0385E1	Classification of the "Media Composer 1000" (Reservation by the EC).

#### DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The discussion of this agenda item began with the Committee agreeing that it was dealing with one machine, i.e., that the machine covered by Classification Opinion 8543.89/4 and the machine described in Annex II to Doc. NC0286E1 were one and the same machine.
2. The EC Delegate argued out that the machines classified by the Committee in 1996 and again in 1999 were the same machine. No new technical data had been presented and there had been no change in the legal text that would justify a change in classification. At its 18<sup>th</sup> Session, the Committee considered that the system in question was a single functional unit to be classified in accordance with the terms of Note 4 to Section XVI. It was therefore necessary to determine the principal function of the system. The Committee therefore did not consider the individual functions of the system's components since it was the function of the system as a whole, as presented to Customs and cleared by Customs, which was decisive for its classification.
3. He referred to paragraphs 17.1 and 17.3 of Annex I to Doc. NC0286E1, wherein the EC had pointed out that the Committee was already familiar with the software function when it classified the product in heading 85.43. The Committee classified a system and it never forgot that the system included a data-processing function (heading 84.71), but also a video recording and video reproduction function (heading 85.21) and functions for creating video effects and editing and finalising video programmes (heading 85.43), and that the whole system had been designed with the various components required to achieve the latter, essential function. None of these other functions were data processing functions.
4. He made reference to the Report of 18<sup>th</sup> Session of the Committee, wherein both the EC and US Delegates, supported by other delegates, agreed that the system was classifiable in heading 85.43. This conclusion was reached because the "Media Composer 1000" was a digital data-processing system, designed to record digital video images, create video effects, or edit and finalize video programmes for broadcasting. As these were clearly functions other than data processing, classification in heading 84.71 was ruled out by virtue of Note 5 (E) to Chapter 84. Heading 85.21 was also ruled out, given that the appliance performed various functions other than video recording or reproducing. As the principal function of this system was the creation of video effects, etc., and as it was not specifically mentioned in any heading of Chapter 85, the Committee had decided that the system was classifiable in heading 85.43 as a functional unit by application of Note 4 to Section XVI.
5. The EC Delegate then concluded that the system was specially designed to perform a specific function : editing video programmes. As there was no change in the technical data nor in the legal text and as the Committee was classifying the same device as it did at its 18<sup>th</sup> Session, he proposed that the Committee should confirm its 1996 decision of classifying

the “Media Composer 1000” system in subheading 8543.89, by application of Note 4 to Section XVI and Note 5 (E) to Chapter 84.

6. Several delegates agreed with this position for the following reasons :
  - Concern was expressed that classifying machines in heading 84.71 just because they had a data processing function was a dangerous practice;
  - There was some doubt as to whether the “Media Composer 1000” software could be loaded onto and run separately on any ADP machine;
  - There was also concern that one of the monitors was dedicated to video broadcasts and, as such, would be classifiable in heading 85.28;
  - The existence, as precedents, of other Classification Opinions, in particular 8517.30/1;
  - Finally, doubt was raised as to whether the system met the terms of Note 5 (A) (a) (3) to Chapter 84.
7. The **US** Delegate informed the Committee that a change in the original decision taken by the Committee in 1996 was warranted on the basis of new information as to the nature of the system. Contrary to the assumptions made at the 18<sup>th</sup> Session, the system did not include special hardware devices which performed a function other than data processing or which dedicated or limited the system to the function of a video editor. In fact, the only “hardware” components of the system were all units of an ADP machine.
8. He disagreed with classification in heading 85.43, which was based inherently on the suggestion that software must be considered as a component when classifying the “Media Composer 1000” system. In this connection, he pointed out that if this reasoning were to be adopted, the classification of any ADP machine would be based on readily changeable software programmes rather than on the approach that has long been accepted, i.e., classification by the objective characteristics of the machine. In his view, classification should be without regard to the nature of the software. The presence of software did not alter the fact that the machine remained freely programmable. The objective characteristics of this machine or system were that it consisted of a CPU, input units and output units. The input units included signal converters, i.e., the video cards and the compression boards which allowed analogue information to be converted into digital signals for processing by the ADP machine.
9. While the software may be special, he believed that it was not relevant to the classification of the machine. Consequently, in his view, Note 5 (E) to Chapter 84 was inapplicable because there was no specific function other than data processing. He concluded by proposing that the Committee reconfirm the decision taken at its 24<sup>th</sup> Session to classify the “Media Composer 1000” in heading 84.71, as the system met all of the requirements of Note 5 (A) and (B) for an ADP machine presented in the form of a system.
10. Several delegates agreed with this position for the following reasons :
  - The manufacturer of this product confirmed that the software would run on any platform that had the minimum standard requirements;

- Data processing is binary. It deals with 1s and 0s and there is no requirement to differentiate between text, numbers or pictures;
- Whether or not the software is pre-loaded, it is still an ADP machine of heading 84.71;
- The ADP components of the package function in exactly the same manner as those within any ADP machine. The only difference is the operating speed;
- Referring to Note 5 (E) to Chapter 84, it was pointed out that in order for the Note to apply, the specific function must be other than data processing. For this to occur, the machine would have to be physically different from other ADP machines. As this was not the case, Note 5 (E) to Chapter 84 did not apply.

11. When the issue was put to a vote, 18 delegates voted for classification in heading 84.71 and 15 delegates voted for heading 85.43, thereby re-confirming the Committee's decision taken at its 24<sup>th</sup> Session to classify the "Media Composer 1000" system in heading 84.71 (subheading 8471.49). This decision was made by application of Notes 5 (A) and (B) to Chapter 84.

12. The Committee instructed the Secretariat to prepare draft amendments to the Compendium of Classification Opinions for review by the next presessional Working Party reflecting the decision to classify the "Media Composer 1000" system in subheading 8471.49, as well as deleting current Classification Opinion 8543.89/4.

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1	2
NC0612E1	Classification of the "Media Composer 1000" and the deletion of Classification Opinion 8543.89/4 (Reservations by the EC and the Czech Republic).

### DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Delegate of the Czech Republic began the discussion on this agenda item by informing the Committee that her administration believed the "Media Composer 1000" should be classified under heading 85.43, as the Committee had decided at its 18<sup>th</sup> Session. She pointed out that, at that time, the Committee had been asked to classify a complete system, which was presented to Customs as such and cleared by Customs as a functional unit to be classified in accordance with the terms of Note 4 to Section XVI. This was clear from the first part of the legal basis set out in Classification Opinion 8543.89/4. The question put to the Committee had never been the separate classification of the different components of the system in the light of their different functions.
2. The Committee's decision at its 27<sup>th</sup> Session was a radical change of position caused, in the Czech Administration's view, by the new description of the "Media Composer 1000" that had been provided at that time. However, she believed that the "Media Composer 1000" systems classified at the Committee's 18<sup>th</sup> and 27<sup>th</sup> Sessions were essentially the same. No new technical data had been provided and no change had been made to the legal texts that would justify a change in classification. In examining the description of the products, the only difference between the two systems was that in the "Media Composer 1000" system described in Classification Opinion 8543.89/4, the software was incorporated in the system, whereas in the product classified at the 27<sup>th</sup> Session the software was presented on a CD-ROM. The function of the "Media Composer 1000" system was still the creation of video effects and the editing and finalising of video programmes for broadcasting. This function was different from data processing. For the preceding reasons, the Czech Republic believed that the "Media Composer 1000" system presented with software on a CD-ROM had to be classified under heading 85.43 in accordance with Note 4 to Section XVI and Note 5 (E) to Chapter 84.
3. The EC Delegate then explained the EC's reservation to the Committee. He first drew the attention of the Committee to the fact that the Committee had classified the "Media Composer 1000" system in subheading 8543.89 by 18 votes to 3, at its 18<sup>th</sup> Session. Following that decision, the HS Committee had unanimously adopted Classification Opinion 8543.89/4 for the system at its 19<sup>th</sup> Session. No reservation had been entered with regard to these decisions. Consequently this decision still applied and Classification Opinion 8543.89/4 remained part of the Compendium of Classification Opinions. These decisions were taken with almost no opposition and the EC, the United States and the Secretariat, among others, had agreed to them.
4. In his view, the Committee had three issues to examine :
  - (1) The merits of the classification of the "Media Composer 1000" system, as described in Classification Opinion 8543.89/4, which was at present in force, and a confirmation of this classification;
  - (2) The classification of the "Media Composer 1000" system, as described in Annex II to Doc. NC0286E1; and

(3) Whether the way in which this system was presented to Customs could influence its classification ?

5. The **EC** Delegate agreed with the Delegate of the **Czech Republic** that, at its 18<sup>th</sup> Session, the Committee had been asked to classify a complete system, which was presented to Customs as such and cleared by Customs as a functional unit to be classified in accordance with the terms of Note 4 to Section XVI. This system was a combination of machines with a processing function (heading 84.71), but also a video recording and reproducing function (heading 85.21) and a function of creating, editing and finalising video effects (heading 85.43). The whole system had been designed with the various elements required to perform this last vital function. Consequently, it was evident that the question put to the Committee had never been the separate classification of the different components of the system in the light of their different functions. It was therefore necessary to determine the principal function of the system. The Committee consequently had not considered the individual functions of the system's components since it was the function of the system as a whole, as presented to Customs and cleared by Customs, which was decisive for its classification ?
6. The **EC** Delegate urgently asked delegations to examine this vital conclusion, taking into account the conclusion of the Committee at its 18<sup>th</sup> Session that the system was a functional unit. This could only be based on the exact description of Classification Opinion 8543.89/4 which was unanimously adopted at the Committee's 19<sup>th</sup> Session. According to this description it concerned :
- (1) a system (not one single appliance or machine);
  - (2) a system "consisting of a combination of machines";
  - (3) a system designed to record digital video images (heading 85.21), create video effects, or edit and finalise video programmes (heading 85.43). This wording "designed to" showed that the system had been deliberately created and the combination of machines chosen was that which best achieved the desired function;
  - (4) inside the system "video signals were converted into digital signals so that they could be processed by the central processing unit" (heading 84.71). This conclusion clearly demonstrated that this function was an intermediate one which was designed to achieve the principal function for which the system was designed which was described under point (iii);
  - (5) "the system is capable of sending and receiving video signals". Again this was a function other than data processing;
  - (6) the key components which made up the system included in addition to "specialised boards", a colour display unit which was an interlaced scanner for video presentations (heading 85.28) and a second non-interlaced unit for displaying data (heading 84.71).
7. The **EC** Delegate felt that no new technical data had been provided and no change had been made to the legal text that would justify a change in classification. The "**Media Composer 1000**" system consisted of a combination of machines and software which was also called "**Media Composer**" which could not be installed or operated separately in any other type of system or ADP machine. Consequently, he felt that the Committee should examine whether the way in which this system was presented to Customs influenced its classification.
8. He then referred to Classification Opinions 8517.30/1 and 9027.30/1 wherein, even though the systems included an ADP machine or units of an ADP machine, the systems had not been classified in heading 84.71 because the principal functions performed by the systems were not ADP functions.

9. The **EC** Delegate reiterated his contention that the "Media Composer 1000" was a complete system which had been deliberately created to achieve a specific and essential function. Consequently, all the components were required to achieve this end. He also referred to the case law mentioned in Doc. NC0612E1.
10. The **EC** Delegate agreed that the Committee should not classify the product based on its software. However, he believed that the Committee must classify the entire system with all the components referred to in Classification Opinion 8543.89/4 or in Annex II to Doc. NC0612E1, and consequently account would have to be taken of Note 4 to Section XVI. This would mean that the "Media Composer 1000" would have to be classified under heading 85.43, as the Committee had already decided at its 18<sup>th</sup> and 19<sup>th</sup> Sessions, provided, of course, that the Committee maintained its view that the function of recording digital video images, creating video effects or editing and finalising video programmes for broadcasting was the principal function of the system. He concluded by asking the Committee to classify the "Media Composer 1000" system presented with software on a CD-ROM under heading 85.43 for the above reasons and on the same legal basis (Note 4 to Section XVI and Note 5 (E) of Chapter 84) under which the "Media Composer 1000" system presented without the CD-ROM had been classified (Classification Opinion 8543.89/4).
11. Several delegates agreed with this position, giving the following reasons :
  - One delegate informed the Committee that, during a demonstration of the "Media Composer 1000", the manufacturer had informed her that the "Media Composer 1000" software could not be loaded onto and run separately on just any ADP machine, as the software required additional memory and specific connections for the monitor;
  - The existence, as precedents, of other Classification Opinions, in particular Opinion 8517.30/1, wherein, even though the systems included an ADP machine or units of an ADP machine, the systems had not been classified in heading 84.71 because the principal functions performed by the systems were not ADP functions.
12. Taking a different view, the **US** Delegate reminded the Committee of the entire history of the consideration of the "Media Composer 1000" which he said was essential to a proper understanding of the matter. He pointed out that while the Committee had classified the machine in heading 85.43, at first, it had re-examined the matter on the basis of new information with respect to the composition and function of the machine. This new information had important consequences for the classification of the machine.
13. He observed that in Doc. NC0151E1, the Secretariat had pointed out that, based on a demonstration of the machine, it was apparent that the machine was not dedicated to any particular use but was freely programmable. As a result, the Secretariat had concluded that the machine was classifiable in subheading 8471.49. This view had been accepted by the Committee, not once but twice, as evidenced by its decisions at its 24<sup>th</sup> and 27<sup>th</sup> Sessions. But for the two reservations filed by the **EC**, the classification of the machine would have been settled. The Committee had likewise twice decided to delete Classification Opinion 8543.89/4. Under the circumstances, it was the burden of the proponents of classification in heading 85.43 to demonstrate why these decisions were not correct.
14. Turning to the machine itself, the **US** Delegate explained that classification should be based on the objective characteristics of the machine. Based on the description in the Annex to the working document, the **US** Delegate explained that the machine consisted of a central processing unit and other units, all of which were typically found in an ADP system. There was no hardware in the machine which could be said to remove the machine from classification in heading 84.71.

15. To the extent that the "Media Composer 1000" was able to perform video editing, that capability was attributable to its specialised software. He noted that the machine presented had this specialised software already installed and that the CD-ROM was used as a backup system. Such software was not a machine within the meaning of Notes 3 or 4 to Section XVI. To classify the product on the basis of the software was not permitted under the Harmonized System. Such a result would be a radical departure from normal classification practice. The general consensus in the Committee, as evidenced by several delegates who had spoken on this issue, supported this statement. He went on to explain that none of the examples from the Compendium of Classification Opinions cited in the reservation presented a case in which the software had determined the classification. Therefore, these Classification Opinions were not relevant to the classification of the "Media Composer 1000".
16. In response to the statement that the software for the "Media Composer 1000" could not be installed or operated separately in any other type of system or ADP machine, the US Delegate indicated that this was incorrect. The software, in fact, could be installed and operated separately in other types of systems and ADP machines.
17. The US Delegate finally stated that there was nothing that made up the "Media Composer 1000" which was other than a normal unit of an automated data processing machine and its software. Accordingly, he urged the Committee to reconfirm its previous two decisions to classify the machine in heading 84.71.
18. Several delegates agreed with this position, giving the following reasons :
  - One delegate listed the components of the system to show the Committee that these components all complied with Subheading Note 1 to Chapter 84. Consequently, there was nothing in the product hardware which would exclude it from classification in heading 84.71;
  - Whether or not the software was pre-loaded, it was still an ADP machine of heading 84.71;
  - The ADP components of the package functioned in exactly the same manner as those of any ADP machine;
  - It was a system capable of processing data and not just simply video editing. Furthermore, it was not a combination of machines and there was no video editor; the system merely consisted of an ADP machine and its software;
  - The system was freely programmable and not a system dedicated to performing a single function.
19. When the issue was put to a vote, 28 delegates voted for classification in heading 85.43 (subheading 8543.89) and 19 delegates voted for heading 84.71. The decision to classify the "Media Composer 1000" in heading 85.43 was made by application of Note 4 to Section XVI and Note 5 (E) to Chapter 84. As a consequence of its decision, the Committee also decided to maintain Classification Opinion 8543.89/4. The Committee decided that a second Classification Opinion was not necessary. However, for the sake of clarity, the Committee noted that the classification decision taken at this, its 30<sup>th</sup> Session, was on a product whose sole material difference from the product which was the subject of Classification Opinion 8543.89/4 was the fact that the software was also presented separately.



